

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Perea Analyst: William Koch Bill Number: AB 1424  
 Related Bills: See Prior Analysis Telephone: 845-4372 Amended Date: July 12, 2011  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Revise Top 250 Tax Debtor List To Top 500/Update List Twice Each Year/License Suspension For Debtors On List/Prohibit State Contracts With Debtors On List/Reciprocal Refund Offsets With Other States/Collection Agreements With Other States Or IRS

**SUMMARY**

This bill would do the following:

- Increase the Franchise Tax Board's (FTB) list of the top 250 tax debtors (hereinafter the "Top 500 tax debtor list") to the top 500 tax debtors.
- Require the FTB to update the Top 500 tax debtor list at least twice each year.
- Provide authority for the suspension of occupational, professional and driver's licenses for debtors appearing on the Top 500 tax debtor list.
- Prohibit any state agency from entering into a contract for goods and services with a tax debtor on the Top 500 tax debtor list.
- Allow the FTB to offset tax refunds for delinquent tax debts owed to other states, but only upon a reciprocal agreement in which the other state's tax refunds are offset for delinquent tax debts owed to the FTB.
- Allow the FTB to contract with the IRS or other states to collect tax debts owed to the FTB.
- Allow the FTB to collect tax debts due the IRS or other states, as specified.

Most of the above provisions would also apply to the Board of Equalization (BOE); however, this analysis only addresses the above provisions as they relate to the FTB.

**RECOMMENDATION AND SUPPORTING ARGUMENTS**

No position.

**SUMMARY OF AMENDMENTS**

The July 12, 2011, amendments extended most of the provisions listed in the "Summary" section above to the BOE and increased the size of the list of the top 250 tax debtors to the top 500 tax debtors. As a result of the amendments, the "This Bill" and "Economic Impact" sections of the department's analysis of this bill as amended June 7, 2011, have been revised. The remainder of that analysis still applies. The "Implementation Considerations" and "Fiscal Impact" sections have been restated for convenience.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA        X   NP  
 \_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
 \_\_\_\_\_ N      \_\_\_\_\_ OUA

Legislative Director

Date

Anne Maitland

7/25/11

## **ANALYSIS**

### **THIS BILL**

#### **Top 500 Tax Debtor List**

This provision would:

- Increase the Top 250 tax debtor list to the top 500 tax debtors.
- Require the FTB to update the Top 500 tax debtor list at least twice each year and:
  - Include on the list the type and status of any occupational or professional license held by a debtor on the list and the names and titles of the principal officers of limited liability companies and corporations appearing on the list.
  - Require a taxpayer's proposed resolution of a tax delinquency to be "accepted" by the FTB rather than "not rejected" to avoid appearing on the list.
  - Allow the FTB to return a tax debtor's name to the list if he or she fails to comply with the terms of the resolution that resulted in the removal of his or her name from the list.

#### **License Suspension for Delinquent Taxpayers Appearing on the Top 500 Tax Debtor List**

This provision would provide discretionary authority to a state governmental licensing entity to withhold issuance or renewal of the license of an applicant or to suspend the license of a licensee whose name appears on a certified list provided by the FTB which indicates the licensee or applicant appears on a Top 500 tax debtor list. The FTB would be required to provide a release form to the state governmental licensing entity for any applicant or licensee that complies with his or her delinquent tax obligation by either payment in full or entry into an installment payment arrangement. The state governmental licensing entity would have five business days to process the release.

This provision would require the FTB to do the following:

- Submit a certified list of tax debtors appearing on a Top 500 tax debtor list to a state governmental licensing entity.
- Create release forms to remove the licensee's name from the certified list.
- Provide a release to a state governmental licensing entity and licensee as specified.
- Notify the state governmental licensing entity when the licensee fails to comply with an installment payment arrangement.

This provision would authorize the FTB to notify a licensee of suspension for unpaid tax debts if the state governmental licensing entity fails to take action within 90 days of a preliminary notice issued by the state governmental licensing entity. Additionally, a state governmental licensing entity would be required to notify the FTB if no action is taken and the reason why.

If a state governmental licensing entity does not suspend or withhold issuance of the license of an applicant for appearing on a Top 500 tax debtor list, the license would be suspended by operation of law. The suspension would occur only after the FTB provides the debtor a 60-day preliminary suspension notice.

This provision would require the FTB to disclose to the licensing boards the reason for the suspension—the licensee appearing on the Top 500 tax debtor list.

This bill would specify that FTB staff would provide a hearing, upon request of a debtor, for a license holder who believes he or she is unable to pay the liability due to a current financial hardship. “Financial hardship” would be defined by reference to Revenue and Taxation Code (R&TC) section 19008, as determined by the FTB. In order to establish that a financial hardship exists, the licensee shall submit any information, including information related to reasonable business and personal expenses, requested by the FTB for making the determination. The FTB would conduct the hearing within 30 days of receipt of the request, unless the FTB postpones the hearing upon a showing of good cause. Suspension would be deferred until the hardship hearing was completed. If a debtor substantiates financial hardship, the FTB would defer or cancel the suspension.

This provision would define the following:

- “Hardship” means financial hardship, as determined by the FTB, where the taxpayer is financially unable to pay any part of his or her taxes including penalties, interest, and applicable fees and is unable to qualify for an installment payment arrangement pursuant to Section 19008 of the R&TC.
- “License” includes certificate, registration, or any other authorization to engage in a profession or occupation issued by a state governmental licensing entity. “License” would include a driver’s license.
- “Licensee” means an individual authorized by a license to drive a motor vehicle or authorized by license, certificate, registration, or other authorization to engage in a profession or occupation issued by a state governmental licensing entity.
- “State governmental licensing entity” means any entity included in Sections 101, 1000, or 19420 of the Business and Professions Code (approximately 40 licensing entities-see Appendix), the Office of Attorney General, the Department of Insurance, the Department of Motor Vehicles, the State Bar of California, the Department of Real Estate, and any other state agency, board, or commission that issues a license, certificate, or registration authorizing a person to engage in a profession or occupation. Licenses issued by the State Bar of California and Department of Alcohol Beverage Control would be excluded from the FTB suspension process and would only be subject to the state governmental licensing entity’s discretionary suspension process.

### **State Agency Contracts for Goods and Services**

This provision would prohibit any state agency from entering into a contract for goods and services with a tax debtor on the Top 500 tax debtor list. Any contract entered into in violation of this provision would be void and unenforceable.

### **Tax Refund Offsets**

This provision would allow the FTB to offset tax refunds for delinquent tax debts owed to other states, but only upon a reciprocal agreement in which the other state's tax refunds are offset for delinquent tax debts owed to the FTB. Offsets for delinquent income tax debts owed to other states would only occur after all other offset requests from California state agencies, cities, counties, and colleges, as well as the federal government, have been satisfied.

### **Collection Agreements with the IRS and Other States**

This provision would:

- Provide authority for the FTB to contract with the IRS or any state imposing an income tax or tax measured by income to collect tax debts owed to the FTB.
- Provide authority for the FTB to collect tax debts due the IRS or any state imposing an income tax or tax measured by income, but only if the IRS or other state agrees to collect tax debts owed to the FTB.

### **IMPLEMENTATION CONSIDERATIONS**

The department has identified the implementation concerns listed below and is working with the author's office for resolution.

- This bill would require the FTB to add the names and titles of the principal officers of limited liability companies and corporations appearing on the Top 500 tax debtor list but fails to indicate how the FTB would identify such principal officers.
- This bill would provide authority for the FTB to collect tax debts due the IRS or other states but fails to identify the payment priority of such debts in the event the debtor has more than one debt type being collected by the FTB.

### **FISCAL IMPACT**

First-year costs to implement this bill would be approximately \$750,000 and annual ongoing costs would be approximately \$600,000. The provision of the bill that would allow the FTB to collect tax debts due the IRS or other states is not reflected in this cost estimate because implementation is contingent upon the IRS or other states enacting similar legislation, which has yet to occur. Once the IRS or other states enact similar legislation, the department would utilize the normal budget change proposal process to obtain funding for this provision of the bill.

## ECONOMIC IMPACT

### Revenue Estimate

Estimated Revenue Impact of AB1424, As Amended July 12, 2011, For Debtor Lists Published and Contracts Executed on or after January 1, 2012, Enactment Assumed After June 30, 2011 (In Millions)				
2011-12	2012-13	2013-14	2014-15	2015-16
\$19	\$24	\$26	\$29	\$31

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill. This estimate does not include any impact on revenues administered by other departments. In addition, it does not reflect any revenue from the provision of the bill that would allow the FTB to contract with the IRS or other states to collect tax debts owed to the FTB because the IRS and other states do not currently have the statutory authority to collect debts owed to the FTB.

### **SUPPORT/OPPOSITION (as shown on the Senate Governance and Finance Committee's analysis)**

Support: California Tax Reform Association  
Western Center on Law and Poverty

Opposition: California Association of Realtors  
California Chapter of the American Fence Association  
California Fence Contractors Association  
Engineering Contractors Association  
California Landscape Contractors Association  
Marin Builders Association  
Flasher Barricade Association

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